IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

WEDNESDAY, THE 27TH JUNE 2007 / 6TH ASHADHA 1929

WP(C).No. 6850 of 2007(M)

PETITIONER:

R.RAVEENDRAN, S/O.LATE RAMAKRISHNA PANIKER, AGED 50 YEARS, IVY ASSOCIATES, KANAKA BUILDINGS, M.C.H.JUNCTION, MUNICIPAL OFFICE WARD, ALAPPUZHA.

BY ADV. SRI.K.S.HARIHARAPUTHRAN
SRI.GEORGE MATHEW

RESPONDENTS:

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1. ALAPPUZHA MUNICIPALITY, REP. BY ITS SECRETARY.

2. THAJUDEEN, S/O.UMMER, KANANE HOUSE, MUNICIPAL STADIUM WARD, ALAPPUZHA.

R1 BY ADV. SRI.M.K.CHANDRA MOHAN DAS, SC, M.C.,ALP
R2 BY SRI.N.N.SUGUNAPALAN (SR.)
SRI.S.SUJIN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 27/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

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WP.(C) No.6850 of 2007

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Dated this the 27th day of June, 2007

JUDGMENT

Petitioner has approached this court for a direction commanding the first respondent to issue licence to the petitioner on Exts.P6 and P6 (a) applications and to stay further proceedings pursuant to Exts.P7 and P7(a). Case of the petitioner in brief is that he is in lawful possession of shop rooms owned by second respondent pursuant to Ext.P1 agreement. After furnishing and obtaining electricity connection he applied for licence in the first respondent Municipality vide Exts.P6 and P6(a). The case is that the second respondent, for reasons best known to him, did not give consent and under the influence exerted by him the first respondent issued Exts. P7 and P7(a). The same is illegal and the petitioner is in lawful possession of the same. No consent is required, it is contended.

2. I heard learned counsel for the petitioner, the Municipality and the second respondent also. The second respondent has also filed a counter affidavit admitting Ext.P1, which according to the second

respondent is only a preliminary agreement.

3. Counsel for the first respondent points out that this is an application for fresh licence. Under Section 492(3) such an application can be considered only when the written consent of the landlord is produced along with the application and no consent has been produced from the second respondent and that is why the applications are not being granted by the first respondent.

4. Learned counsel for the petitioner would contend that this is a case where decision of this court reported in **Marimuthu v. Director General of Police** (1999(3) K.L.T. 662) is applicable. As rightly pointed out by counsel for the second respondent that case related to renewal of an existing licence. Learned counsel for the second respondent would point out that there is no landlord-tenant relationship between the parties. Learned counsel for the petitioner points out the provision in Ext.P1, as per which the second respondent has agreed to give no objection and it is also pointed out that in respect of the electricity connection from the KSEB he has given no objection as evidenced by Ext.P2. Learned counsel for the second respondent

points out that it is on account of the petitioner not executing a fresh lease deed and agreeing to pay Rs.14,000/- per month that the no objection was not given. Whatever that be, the fact remains that under Section 492(3) in respect of an original licence, licence will not be issued by the Municipality except upon production of written consent given by the landlord. In this case it is not in dispute that that such a consent has not been given by the second respondent. No doubt, learned counsel for the petitioner relies on Ext.P1 agreement and submits that there is an agreement to issue no objection. If the petitioner is aggrieved by the non-granting of the consent letter by the second respondent, certainly he has to work out his remedies in the appropriate forum.

In such circumstances leaving liberty to the petitioner to work out his remedies so as to obtain necessary consent from the second respondent, this writ petition is disposed of.

sb. (K.M. JOSEPH, JUDGE)